Appl. No. 09/848,885
Amendment and/or Response
Reply to Office action of 19 May 2005

Page 8 of 13

REMARKS

Claims 1-23 are pending in this application.

The Office action rejects claims 1-7, 18, and 20-23 under 35 U.S.C. 102(e) over Serret-Avila (USP 6,785,815). The applicants respectfully traverse this rejection.

The Examiner's attention is requested to MPEP 2131, wherein it is stated:

"A claim is anticipated only if *each and every element* as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The *identical invention* must be shown in as *complete detail* as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1, upon which claims 2-7 depend, claims a verifier that is configured to provide a verification of a presence of the data set, via a first verification of a presence of a select subset of the plurality of data items, and a second verification of a receipt of a given proportion of the plurality of data items, and wherein the verifier provides the verification of the presence of the data set if either the first verification or the second verification occurs.

Serret-Avila does not teach a verifier that is configured to provide a verification of a presence of the data set. Serret-Avila assumes that the data set is present, and verifies the presence of a proper signature in each watermark. If the proper signature is not found, Serret-Avila verifies the presence of a strong watermark in the block that fails to contain the proper signature.

Serret-Avila does not teach a first verification of a presence of a select subset of the plurality of data items. Serret-Avila assumes that the data set is present, and verifies the presence of a proper signature in each watermark. If the proper signature is not found, Serret-Avila verifies the presence of a strong watermark in the block that fails to contain the proper signature.

Serret-Avila does not teach a second verification of a receipt of a given proportion of the plurality of data items. Serret-Avila verifies that a signature is present on all of the data items that it receives. Serret-Avila is unaware of the

US-000140 Final 5.519   Atty. Docket No. US 000140

Appl. No. 09/848,885
Amendment and/or Response
Reply to Office action of 19 May 2005

Page 9 of 13

number of data items in the data set, and thus cannot determine the proportion of the data items received.

Serret-Avila does not teach that the verifier provides the verification of the presence of the data set if either the first verification or the second verification occurs. Serret-Avila assumes that the data set is present, and verifies the presence of a watermark. If the proper signature is not found, Serret-Avila verifies the presence of a strong watermark in the block that fails to contain the proper signature.

Because Serret-Avila does not teach any of the elements related to the verifier of the applicants' claim 1, the applicants respectfully maintain that the rejection of claim 1 is unfounded.

The Office action asserts that Serret-Avila teaches a verifier that is configured to provide a verification of a presence of the data set at column 11, lines 23-29. The cited text follows:

> "FIG. 3 illustrates a technique for applying digital signatures to a data signal 300. Data signal 300 may, for example, represent PCM data from an audio track on a compact disc or a MiniDisc audio disc, video data from a DVD, a stream of textual information received from the Internet, part of a computer program or applet, or any other suitable data signal. As shown in FIG. 3, one approach to signing data signal 300 is to logically and/or physically partition data signal 300 into a sequence of data blocks or segments 304, each segment 304 having its own signature 306. When decoding system 104 receives the encoded data signal 302, system 104 verifies the authenticity of blocks 304 using, e.g., the techniques previously described in connection with FIG. 2B." (Serret-Avila, column 11, lines 23-36.)

As can be seen, the cited text does not teach a verifier that is configured to provide a verification of a presence of the data set. Serret-Avila's verifier verifies whether each received block is authentic. As illustrated in Serret-Avila's FIG. 2B, when a block is received, a signature is extracted 205', and used to create 220 a hash that is compared to a hash generated 216 by the data content. If the hashes are equal, the data is determined to be "OK". If blocks of the data set are not present, they are not processed by Serret-Avila's verifier. Therefore,

Appl. No. 09/848,885
Amendment and/or Response
Reply to Office action of 19 May 2005

Page 10 of 13

Serret-Avila's verifier cannot be said to verify the presence of a data set, as specifically claimed.

The Office action asserts that Serret-Avila teaches a first verification of a presence of a select subset of the plurality of data items at FIGs. 9A-9B. The applicants note however, that FIGs. 9A-9B disclose a technique for detecting the presence of a watermark, and do not disclose detecting the presence of data items. As noted above, Serret-Avila's verifier does not verify whether or not a data item is present, as specifically claimed; it is activated by the presence of a data item, and verifies whether a watermark is present in the data item.

The Office action asserts that Serret-Avila teaches a second verification of a receipt of a given proportion of the plurality of data items at FIGs. 10-11. The applicants note however, that FIGs. 10-11 assume that all of the data items are present, and do not verify that the blocks are present. In FIG. 11, the loop 1104-1114 processes each block. The applicants specifically note the absence of any step in the loop that asks "Is the block present?". Serret-Avila assumes that all blocks are present, and verifies that a proper signature is in each block, and verifies whether a strong watermark is contained in the block when the proper signature is not found. Serret-Avila's verifier does not take notice of whether a data item is present or absent, and thus cannot be said to verify whether a given proportion of the data items are present, as specifically claimed.

The Office action asserts that Serret-Avila teaches that the verifier provides the verification of the presence of the data set if either the first verification or the second verification occurs at FIG. 11. The applicants note that Serret-Avila's FIG. 11 verifies that a proper signature is in each block, and verifies whether a strong watermark is contained in the block when the proper signature is not found. Further, Serret-Avila's FIG. 11 illustrates that no action is taken provided that the blocks received contain the proper signature or that a block received does not contain a strong watermark, and that action is taken only when the proper signature is not received and the strong watermark is detected.

Appl. No. 09/848,885   Page 11 of 13
Amendment and/or Response
Reply to Office action of 19 May 2005

Neither of these actions corresponds to a verification of the presence of the data set, as specifically claimed.

In like manner, claim 18, upon which claims 20-23 depend, claims a method of controlling a rendering of data items of a data set that includes conducting a first test for a presence of an entirety of the data set based on a receipt of randomly selected sections of the data set, conducting a second test for the presence of the entirety of the data set based on a receipt of a quantity of different sections of the data set, and controlling the rendering of the data items in dependence upon a result of either the first or second test.

Serret-Avila does not teach a first test for a presence of an entirety of the data set based on a receipt of randomly selected sections of the data set.

Serret-Avila does not teach a second test for the presence of the entirety of the data set based on a receipt of a quantity of different sections of the data set.

Serret-Avila does not teach controlling the rendering of the data items in dependence upon a result of either the first or second test.

Because Serret-Avila does not teach any of the elements related to the verifier of the applicants' claim 1, the applicants respectfully maintain that the rejection of claim 18 is unfounded.

The Office action asserts that Serret-Avila teaches a first test for a presence of an entirety of the data set based on a receipt of randomly selected sections of the data set at column 11, lines 23-29. The cited text is provided above, and clearly does not teach a random selection of sections of the data set. Serret-Avila's FIG. 9B discloses the generation of random keys to determine whether a block was marked using one of such keys, but does not teach testing for the presence of an entirety of a data set based on randomly selecting sections of the data set.

Appl. No. 09/848,885
Amendment and/or Response
Reply to Office action of 19 May 2005

Page 12 of 13

The Office action asserts that Serret-Avila teaches a second test for the presence of the entirety of the data set based on a receipt of a quantity of different sections of the data set at column 17, lines 39-43. The cited text follows:

> "Note that quality indicator 713 need not be signed along with the signal, as it is generally not possible to mount an attack by changing these bits, since signature verification will fail if these bits do not reflect the values actually used in computing the signature. The signature engine of decoding device 104 is operable to retrieve the quality indicator from the watermark, and to use it in computing the signature of the received data signal." (Serret-Avila, column 17, lines 37-45.)

As can be seen, the cited text does not reference determining the presence of the entirety of the data set based on a receipt of a quantity of different sections of the data set, as specifically claimed.

The Office action asserts that Serret-Avila teaches controlling the rendering of the data items in dependence upon a result of either the first or second test at FIG. 11. As noted above, FIG. 11 teaches the control of the rendering of the data items based on whether a proper signature is in each block, and whether a strong watermark is contained in the block when the proper signature is not found. Serret-Avila's FIG. 11 does not teach controlling the rendering based on a first test for a presence of an entirety of the data set based on a receipt of randomly selected sections of the data set, and a second test for the presence of the entirety of the data set based on a receipt of a quantity of different sections of the data set, as specifically claimed.

Because Serret-Avila does not teach each of the elements of claims 1 and 18, the applicants respectfully request the Examiner's reconsideration of the rejection of claims 1-7, 18, and 20-23 under 35 U.S.C. 102(e) over Serret-Avila.

Appl. No. 09/848,885   Page 13 of 13
Amendment and/or Response
Reply to Office action of 19 May 2005

The Office action rejects claims 8-17 and 19 under 35 U.S.C. 103(a) over Serret-Avila and Oshima et al. (USP 6,266,299). The applicants respectfully traverse this rejection.

MPEP 2142 states:

"To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) *must teach or suggest all the claim limitations*... If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness."

The Office action relies upon Serret-Avila for teaching the elements of claims 1 and 18, upon which these rejected claims depend. As noted above, Serret-Avila does not teach each of the elements of either claim 1 or claim 18.

Because Serret-Avila does not teach each of the elements of claim 1 or claim 18, the applicants respectfully maintain that a prima facie case of obviousness has not been shown, and thus the rejection of claims 8-17 and 19 are unfounded.

In view of the foregoing, the applicants respectfully request that the Examiner withdraw the rejections of record, allow all the pending claims, and find the present application to be in condition for allowance. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

Robert M. McDermott, Esq.
Reg. No. 41,508
804-493-0707